

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

JASON WELLS,	:
	:
Petitioner-Defendant	:
	:
v.	:
	5:03-CR-30 (WDO)
	5:07-CV-124 (WDO)
UNITED STATES OF AMERICA,	:
	:
Respondent	:

ORDER

This matter is before the Court on the Magistrate Judge's Report and Recommendation to dismiss Petitioner's habeas petition as untimely filed. Petitioner filed an objection stating the Court should reject the Recommendation because the habeas petition was filed only a week late. The Supreme Court of the United States has instructed lower courts to strictly construe the statute of limitations in these matters. In United States v. Locke, 471 U.S. 84, 105 S.Ct. 1785, (1985), the Court ruled:

The notion that a filing deadline can be complied with by filing something after the deadline falls due is . . . a notion without principle. If 1-day late filings are acceptable, 10-day late filings might be equally acceptable, and so on in a cascade of exceptions that would engulf the rule erected by the filing deadline; yet regardless of where the cutoff line is set, some individuals will always fall just on the other side of it. Filing deadlines, like statute of limitations, necessarily operate harshly and arbitrarily with respect to individuals who fall just on the other side of them, but if the concept of a filing deadline is to have any content, the deadline must be enforced.

Id., 471 U.S. at 101, 105 S.Ct. at 1796. "A filing deadline cannot be complied with,

substantially or otherwise by filing late – even one day.” Carlisle v. United States, 517 U.S. 416, 430, 116 S.Ct. 1460 (1996). Accordingly, the Recommendation is ADOPTED and made the order of the Court and Petitioner Wells’ habeas petition is DISMISSED AS UNTIMELY FILED.

SO ORDERED this 22nd day of May, 2007.

S/
WILBUR D. OWENS, JR.
UNITED STATES DISTRICT JUDGE